

Robert G. Drummond
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(Trustee)

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MONTANA

In re)	
)	No. 1:23-bk-10019-BPH
MISTY LEE ROBERTS and)	
JAMES D. CLEMONS,)	
)	
Debtors.)	

TRUSTEE'S OBJECTION TO PROOF OF CLAIM

Pursuant to Rule 3007 and Mont. LBR 3007-1, the undersigned respectfully objects to the Proof of Claim filed in the above-entitled case by MERRICK BANK, which is claim number 4 on the Claims Register maintained by the Clerk of Court. The grounds for this objection are as follows:

Paragraph 2 of the claim states that the debt was not acquired from someone else. Paragraph 8 of the claim states that it is based on a credit card. There are no contracts, promissory notes, judgments, or any other documents upon which the debt is based attached to the claim. The attachment to the claim states that the last transaction date was February 5, 2008. The attachment also states that the last payment date was January 16, 2008. Nothing attached to the claim provides any information about an event that would restart the running of the applicable statute of limitations. The longest statute of limitations for collection of the debt without an underlying contract would be five (5) years pursuant to M.C.A. § 27-2-202(2). Thus, the claim is beyond the applicable Montana statute of limitations.

WHEREFORE, Proof of Claim number 4 should be disallowed.

DATED March 14, 2023.

Chapter 13 Standing Trustee
P. O. Box 1829
Great Falls, MT 59403-1829

By /s/ Robert G. Drummond
Trustee

**NOTICE OF OBJECTION TO CLAIM AND OPPORTUNITY TO RESPOND
AND REQUEST A HEARING**

An objection to your claim in this bankruptcy case has been filed. The objection may result in your claim being reduced, modified or eliminated. If you do not want your claim modified or eliminated, you must file a written responsive pleading and request a hearing within thirty (30) days of the date of the objection. The responding party shall schedule the hearing on the motion at least twenty-one (21) days after the date of the response and request for hearing and shall include in the caption of the responsive pleading in bold and conspicuous print the date, time and location of the hearing by inserting in the caption the following:

NOTICE OF HEARING

Date: _____

Time: _____

Location: _____

If no objections are timely filed, the Court may reduce, modify or eliminate the claim.

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify under penalty of perjury that on March 14, 2023, a copy of the foregoing **TRUSTEE'S OBJECTION TO PROOF OF CLAIM** was served by electronic means pursuant to LBR 9013-1(d)(2) on the parties noted in the Court's ECF transmission facilities and/or by mail on the following parties:

MERRICK BANK
Resurgent Capital Services
PO Box 10368
Greenville, SC 29603-0368

Misty Lee Roberts
James D. Clemons
29 Powder River Lane
Red Lodge, MT 59068

/s/ Tiffany Floerchinger
Tiffany Floerchinger